

AMENDMENTS

2001—Par. (1). Pub. L. 107-56 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “‘act of terrorism’ means an activity that—

“(A) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

“(B) appears to be intended—

“(i) to intimidate or coerce a civilian population;

“(ii) to influence the policy of a government by intimidation or coercion; or

“(iii) to affect the conduct of a government by assassination or kidnapping;”.

1996—Par. (8)(A). Pub. L. 104-294 substituted “this title” for “title 18, United States Code”.

1994—Par. (1)(B)(iii). Pub. L. 103-322 substituted “kidnapping” for “kidnaping”.

Par. (8). Pub. L. 103-359 added par. (8).

1990—Pub. L. 101-647 substituted a semicolon for a period at end of pars. (1) to (3), moved the comma from before the close quotation mark to after that mark in par. (4), substituted a semicolon for a period at end of par. (5), and substituted “; and” for period at end of par. (6).

1988—Par. (4). Pub. L. 100-690 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “‘United States’—

“(A) when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States; and

“(B) when used in the context of section 3073 shall have the meaning given to it in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).”

CHAPTER 205—SEARCHES AND SEIZURES

Sec.

- 3101. Effect of rules of court—Rule.
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CODIFICATION

Pub. L. 90-351 enacted section 3103a of this title as part of chapter 204, and Pub. L. 90-462, § 3, Aug. 8, 1968, 82 Stat. 638, corrected the chapter designation from 204 to 205.

AMENDMENTS

1990—Pub. L. 101-647, title XXXV, § 3573(d), Nov. 29, 1990, 104 Stat. 4929, struck out item 3112 “Search warrants for seizure of animals, birds, or eggs” and renumbered item 3117, “Implied consent for certain tests”, as 3118.

1988—Pub. L. 100-690, title VI, § 6477(b)(2), Nov. 18, 1988, 102 Stat. 4381, added item 3117 “Implied consent for certain tests”.

1986—Pub. L. 99-508, title I, § 108(b), Oct. 21, 1986, 100 Stat. 1858, added item 3117 “Mobile tracking devices”.

1968—Pub. L. 90-351, title IX, § 1401(b), June 19, 1968, 82 Stat. 238, added item 3103a.

CHANGE OF NAME

Words “magistrate judge” substituted for “magistrate” in item 3116 pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 3101. Effect of rules of court—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Rules generally applicable throughout United States, Rule 54.

Acts of Congress superseded, Rule 41(g).

(June 25, 1948, ch. 645, 62 Stat. 819.)

REFERENCES IN TEXT

Rule 41(g), referred to in text, was relettered 41(h) by 1972 amendment eff. Oct. 1, 1972.

§ 3102. Authority to issue search warrant—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Federal, State or Territorial Judges, or U.S. magistrate judges authorized to issue search warrants, Rule 41(a).

(June 25, 1948, ch. 645, 62 Stat. 819; Pub. L. 90-578, title III, § 301(a)(4), Oct. 17, 1968, 82 Stat. 1115; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1968—Pub. L. 90-578 substituted “magistrates” for “Commissioners”.

CHANGE OF NAME

“U.S. magistrate judges” substituted for “U.S. magistrates” in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 3103. Grounds for issuing search warrant—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Grounds prescribed for issuance of search warrant, Rule 41(b).

(June 25, 1948, ch. 645, 62 Stat. 819.)

§ 3103a. Additional grounds for issuing warrant

(a) IN GENERAL.—In addition to the grounds for issuing a warrant in section 3103 of this title, a warrant may be issued to search for and seize any property that constitutes evidence of a criminal offense in violation of the laws of the United States.

(b) DELAY.—With respect to the issuance of any warrant or court order under this section, or any other rule of law, to search for and seize any property or material that constitutes evi-

dence of a criminal offense in violation of the laws of the United States, any notice required, or that may be required, to be given may be delayed if—

(1) the court finds reasonable cause to believe that providing immediate notification of the execution of the warrant may have an adverse result (as defined in section 2705, except if the adverse results consist only of unduly delaying a trial)¹;

(2) the warrant prohibits the seizure of any tangible property, any wire or electronic communication (as defined in section 2510), or, except as expressly provided in chapter 121, any stored wire or electronic information, except where the court finds reasonable necessity for the seizure; and

(3) the warrant provides for the giving of such notice within a reasonable period not to exceed 30 days after the date of its execution, or on a later date certain if the facts of the case justify a longer period of delay.

(c) **EXTENSIONS OF DELAY.**—Any period of delay authorized by this section may be extended by the court for good cause shown, subject to the condition that extensions should only be granted upon an updated showing of the need for further delay and that each additional delay should be limited to periods of 90 days or less, unless the facts of the case justify a longer period of delay.

(d) **REPORTS.**—

(1) **REPORT BY JUDGE.**—Not later than 30 days after the expiration of a warrant authorizing delayed notice (including any extension thereof) entered under this section, or the denial of such warrant (or request for extension), the issuing or denying judge shall report to the Administrative Office of the United States Courts—

(A) the fact that a warrant was applied for;

(B) the fact that the warrant or any extension thereof was granted as applied for, was modified, or was denied;

(C) the period of delay in the giving of notice authorized by the warrant, and the number and duration of any extensions; and

(D) the offense specified in the warrant or application.

(2) **REPORT BY ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.**—Beginning with the fiscal year ending September 30, 2007, the Director of the Administrative Office of the United States Courts shall transmit to Congress annually a full and complete report summarizing the data required to be filed with the Administrative Office by paragraph (1), including the number of applications for warrants and extensions of warrants authorizing delayed notice, and the number of such warrants and extensions granted or denied during the preceding fiscal year.

(3) **REGULATIONS.**—The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General, is authorized to issue binding regulations dealing with the content and form of the

reports required to be filed under paragraph (1).

(Added Pub. L. 90-351, title IX, § 1401(a), June 19, 1968, 82 Stat. 238; amended Pub. L. 107-56, title II, § 213, Oct. 26, 2001, 115 Stat. 285; Pub. L. 109-177, title I, § 114, Mar. 9, 2006, 120 Stat. 210.)

CODIFICATION

Pub. L. 90-351 enacted section 3103a of this title as part of chapter 204, and Pub. L. 90-462, § 3, Aug. 8, 1968, 82 Stat. 638, corrected the chapter designation from 204 to 205.

AMENDMENTS

2006—Subsec. (b)(1). Pub. L. 109-177, § 114(b), inserted “, except if the adverse results consist only of unduly delaying a trial” after “2705”.

Subsec. (b)(3). Pub. L. 109-177, § 114(a)(1), added par. (3) and struck out former par. (3) which read as follows: “the warrant provides for the giving of such notice within a reasonable period of its execution, which period may thereafter be extended by the court for good cause shown.”

Subsecs. (c), (d). Pub. L. 109-177, § 114(a)(2), (c), added subsecs. (c) and (d).

2001—Pub. L. 107-56 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 3104. Issuance of search warrant; contents—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Issuance of search warrant on affidavit; contents to identify persons or place; command to search forthwith, Rule 41(c).

(June 25, 1948, ch. 645, 62 Stat. 819.)

§ 3105. Persons authorized to serve search warrant

A search warrant may in all cases be served by any of the officers mentioned in its direction or by an officer authorized by law to serve such warrant, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution.

(June 25, 1948, ch. 645, 62 Stat. 819.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 617 (June 15, 1917, ch. 30, title XI, § 7, 40 Stat. 229).

Minor change was made in phraseology.

§ 3106. Officer authorized to serve search warrant—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Officer to whom search warrant shall be directed, Rule 41(c).

(June 25, 1948, ch. 645, 62 Stat. 819.)

§ 3107. Service of warrants and seizures by Federal Bureau of Investigation

The Director, Associate Director, Assistant to the Director, Assistant Directors, agents, and inspectors of the Federal Bureau of Investigation of the Department of Justice are empowered to make seizures under warrant for violation of the laws of the United States.

(June 25, 1948, ch. 645, 62 Stat. 819; Jan. 10, 1951, ch. 1221, § 2, 64 Stat. 1239.)

HISTORICAL AND REVISION NOTES

Based on section 300a of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Em-

¹ So in original. The closing parenthesis probably should follow “section 2705”.

ployees (June 18, 1934, ch. 595, 48 Stat. 1008; Mar. 22, 1935, ch. 39, title II, 49 Stat. 77).

Section 300a of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees, was used as the basis for this section and section 3052 of this title.

AMENDMENTS

1951—Act Jan. 10, 1951, included within its provisions the Associate Director and the Assistant to the Director.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 2 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3108. Execution, service, and return—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Method and time for execution, service and return of search warrant, Rule 41(c), (d).

(June 25, 1948, ch. 645, 62 Stat. 819.)

§ 3109. Breaking doors or windows for entry or exit

The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant.

(June 25, 1948, ch. 645, 62 Stat. 820.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 618, 619 (June 15, 1917, ch. 30, title XI, §§ 8, 9, 40 Stat. 229).

Said sections 618 and 619 were consolidated with minor changes in phraseology but without change of substance.

§ 3110. Property defined—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Term “property” as used in Rule 41 includes documents, books, papers and any other tangible objects, Rule 41(g).

(June 25, 1948, ch. 645, 62 Stat. 820.)

REFERENCES IN TEXT

Rule 41(g), referred to in text, was redesignated 41(h) by 1972 amendment eff. Oct. 1, 1972.

§ 3111. Property seizable on search warrant—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Specified property seizable on search warrant, Rule 41(b).

(June 25, 1948, ch. 645, 62 Stat. 820.)

[§ 3112. Repealed. Pub. L. 97-79, § 9(b)(3), Nov. 16, 1981, 95 Stat. 1079]

Section, acts June 25, 1948, ch. 645, 62 Stat. 820; Dec. 5, 1969, Pub. L. 91-135, § 7(c), 83 Stat. 281; Nov. 8, 1978, Pub. L. 95-616, § 3(j)(1), 92 Stat. 3112, provided for issu-

ance of search warrants for seizure of animals, birds, and eggs. See section 3375 of Title 16, Conservation.

§ 3113. Liquor violations in Indian country

If any superintendent of Indian affairs, or commanding officer of a military post, or special agent of the Office of Indian Affairs for the suppression of liquor traffic among Indians and in the Indian country and any authorized deputies under his supervision has probable cause to believe that any person is about to introduce or has introduced any spirituous liquor, beer, wine or other intoxicating liquors named in sections 1154 and 1156 of this title into the Indian country in violation of law, he may cause the places, conveyances, and packages of such person to be searched. If any such intoxicating liquor is found therein, the same, together with such conveyances and packages of such person, shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the informer and one-half to the use of the United States. If such person be a trader, his license shall be revoked and his bond put in suit.

Any person in the service of the United States authorized by this section to make searches and seizures, or any Indian may take and destroy any ardent spirits or wine found in the Indian country, except such as are kept or used for scientific, sacramental, medicinal, or mechanical purposes or such as may be introduced therein by the Department of the Army.

(June 25, 1948, ch. 645, 62 Stat. 820; Oct. 31, 1951, ch. 655, § 30, 65 Stat. 721; Pub. L. 103-322, title XXXIII, § 330004(15), Sept. 13, 1994, 108 Stat. 2142.)

HISTORICAL AND REVISION NOTES

Based on sections 246, 248, 252 of title 25, U.S.C., 1940 ed., Indians (R.S. § 2140; Mar. 1, 1907, ch. 2285, 34 Stat. 1017; May 18, 1916, ch. 125, § 1, 39 Stat. 124).

Said sections 246, 248, and 252 were consolidated. References to Indian agent and subagent were deleted since those positions no longer exist. See section 64 of title 25, U.S.C., 1940 ed., Indians, and notes thereunder.

Words “except such as are kept or used for scientific, sacramental, medicinal or mechanical purposes” were inserted. See reviser’s note under section 1154 of this title.

Words “conveyances and packages” were substituted for the enumeration, “boats, teams, wagons and sleds * * * and goods, packages and peltries.”

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322 struck out last par. which read as follows: “In all cases arising under this section and sections 1154 and 1156 of this title, Indians shall be competent witnesses.”

1951—Act Oct. 31, 1951, substituted “Department of the Army” for “War Department” in second par.

§ 3114. Return of seized property and suppression of evidence; motion—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Return of property and suppression of evidence upon motion, Rule 41(e).

(June 25, 1948, ch. 645, 62 Stat. 820.)

§ 3115. Inventory upon execution and return of search warrant—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Inventory of property seized under search warrant and copies to persons affected, Rule 41(d).

(June 25, 1948, ch. 645, 62 Stat. 820.)

§ 3116. Records of examining magistrate judge; return to clerk of court—(Rule)

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Magistrate judges and clerks of court to keep records as prescribed by Director of the Administrative Office of the United States Courts, Rule 55.

Return or filing of records with clerk, Rule 41(f).

(June 25, 1948, ch. 645, 62 Stat. 821; Pub. L. 90-578, title III, § 301(a)(4), Oct. 17, 1968, 82 Stat. 1115; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Section 627 of title 18, U.S.C., 1940 ed., relating to the filing of search warrants and companion papers, was omitted as unnecessary in view of Rule 41(f) of the Federal Rules of Criminal Procedure.

REFERENCES IN TEXT

Rule 41(f), referred to in text, was redesignated 41(g) by 1972 amendment eff. Oct. 1, 1972.

AMENDMENTS

1968—Pub. L. 90-578 substituted “Magistrates” for “Commissioners”.

CHANGE OF NAME

Words “magistrate judge” substituted for “magistrate” in section catchline and “Magistrate judges” substituted for “Magistrates” in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 3117. Mobile tracking devices

(a) **IN GENERAL.**—If a court is empowered to issue a warrant or other order for the installation of a mobile tracking device, such order may authorize the use of that device within the jurisdiction of the court, and outside that jurisdiction if the device is installed in that jurisdiction.

(b) **DEFINITION.**—As used in this section, the term “tracking device” means an electronic or mechanical device which permits the tracking of the movement of a person or object.

(Added Pub. L. 99-508, title I, § 108(a), Oct. 21, 1986, 100 Stat. 1858.)

CODIFICATION

Another section 3117 was renumbered section 3118 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as an Effective Date of 1986 Amendment note under section 2510 of this title.

§ 3118. Implied consent for certain tests

(a) **CONSENT.**—Whoever operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents thereby to a chemical test or tests of such person’s blood, breath, or urine, if arrested for any offense arising from such person’s driving while under the influence of a drug or alcohol in such jurisdiction. The test or tests shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving a motor vehicle upon the special maritime and territorial jurisdiction of the United States while under the influence of drugs or alcohol in violation of the laws of a State, territory, possession, or district.

(b) **EFFECT OF REFUSAL.**—Whoever, having consented to a test or tests by reason of subsection (a), refuses to submit to such a test or tests, after having first been advised of the consequences of such a refusal, shall be denied the privilege of operating a motor vehicle upon the special maritime and territorial jurisdiction of the United States during the period of a year commencing on the date of arrest upon which such test or tests was refused, and such refusal may be admitted into evidence in any case arising from such person’s driving while under the influence of a drug or alcohol in such jurisdiction. Any person who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States after having been denied such privilege under this subsection shall be treated for the purposes of any civil or criminal proceedings arising out of such operation as operating such vehicle without a license to do so.

(Added Pub. L. 100-690, title VI, § 6477(b)(1), Nov. 18, 1988, 102 Stat. 4381, § 3117; renumbered § 3118, Pub. L. 101-647, title XXXV, § 3574, Nov. 29, 1990, 104 Stat. 4929.)

AMENDMENTS

1990—Pub. L. 101-647 renumbered second section 3117 of this title as this section.

CHAPTER 206—PEN REGISTERS AND TRAP AND TRACE DEVICES

Sec.	
3121.	General prohibition on pen register and trap and trace device use; exception.
3122.	Application for an order for a pen register or a trap and trace device.
3123.	Issuance of an order for a pen register or a trap and trace device.
3124.	Assistance in installation and use of a pen register or a trap and trace device.
3125.	Emergency pen register and trap and trace device installation.
3126.	Reports concerning pen registers and trap and trace devices.
3127.	Definitions for chapter.

AMENDMENTS

1988—Pub. L. 100-690, title VII, §§ 7068, 7092(c), Nov. 18, 1988, 102 Stat. 4405, 4411, substituted “trap and trace” for “trap or trace” in item 3123, added item 3125, and redesignated former items 3125 and 3126 as 3126 and 3127, respectively.

§ 3121. General prohibition on pen register and trap and trace device use; exception

(a) **IN GENERAL.**—Except as provided in this section, no person may install or use a pen reg-